

Senate Bill No. 1627

Passed the Senate August 29, 2008

Secretary of the Senate

Passed the Assembly August 22, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 13975 of the Government Code, to amend Sections 1130, 1137, 1150, 1152, 1153, 1154, 1155, 1156, 1156.5, 1156.6, 1157, 1158, 1159, 1159.1, 1171.5, 1180.6, 1181, and 1182 of, and to add Sections 1117, 1157.1, 1157.2, 1157.3, 1157.4, 1159.5, 1195.1, 1195.3, 1196.1, and 1196.3 to, and to add and repeal Section 1159.4 of, the Harbors and Navigation Code, relating to pilot commissioners, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1627, Wiggins. Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, Suisun, and Monterey.

(1) Existing law provides for the regulation and licensing of pilots for the Bays of San Francisco, San Pablo, Suisun, and Monterey by the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. Under existing law, the board consists of 7 members who are appointed by the Governor, with the consent of the Senate. Existing law requires the board to appoint and license the number of pilots needed to carry out these provisions and requires the board to consider various factors in making this determination. Existing law specifies that the board has the sole authority to determine the qualifications and requirements for obtaining a pilot license, and it also authorizes the board to suspend or revoke licenses for misconduct, and it specifies procedures for that action. Existing law establishes various rights and duties of these pilots. Existing law provides for an administrative assistant/secretary of the board and assigns various duties to that position. Existing law also prescribes pilotage rates for vessels and requires vessels inward or outward bound to pay a specified rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun, and vessels navigating the waters of Monterey Bay are also required to pay a specified rate. Under existing law, there is a San Francisco Bar Pilot Pension Plan, and existing law specifies benefits, administration, eligibility, financing, and other matters relating to the operation of the plan. Existing law also imposes

various surcharges for, among other things, pilot trainee training, pilot training, and board operations. Existing law authorizes the board to appoint an executive director who serves at the pleasure of the board.

This bill would revise and recast those provisions by making the board a part of the Business, Transportation and Housing Agency, to be renamed the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. The bill would eliminate the position of the administrative assistant/secretary and reassign its duties to the board. The bill would establish the position of an assistant director who is appointed by, and serves at the pleasure of, the Governor. The bill would make the Secretary of the Business, Transportation and Housing Agency an ex officio member of the board. The bill would also require the Secretary of the Business, Transportation and Housing Agency to act as the executive director during the absence of the executive director from the state or during a vacancy.

The bill would, until January 1, 2011, require that the Bureau of State Audits complete specified audits of the board by December 1, 2009, and January 1, 2010, respectively. The bill would also require the Business, Transportation and Housing Agency to provide comments and recommendations, if any, to the board and the Legislature based on the final audits by the Bureau of State Audits no later than 6 months from the date of the receipt of the audits. The bill would provide for reimbursement of the bureau's actual costs in conducting these audits to the extent that these costs are not covered by a legislative appropriation. The bill would make an appropriation of \$350,000 for this purpose.

(2) Existing law provides for the appointment of a port agent by a majority of the licensed pilots subject to the approval of the board and assigns to the port agent various duties, including carrying out the orders of the board and other applicable laws and otherwise administering the affairs of the pilots.

This bill would specify additional duties of the port agent.

(3) Existing law authorizes the board to issue a subpoena for a witness in a case pending before the board. A witness who disobeys the subpoena is subject to a civil penalty of \$100.

This bill would increase the civil penalty to \$500.

(4) Existing law requires that a register of pilots appointed by the board be kept.

This bill would, instead, require the board to keep specified records of each pilot appointed and licensed by the board and would require pilots to provide the board with a notice of change of specified records within 30 days of the change. The bill would specify that personal information in the records is confidential and would require the board to establish procedures for access to that information. An agent of the board who, without authorization, willfully discloses confidential information is subject to a civil penalty not to exceed \$2,500.

(5) Existing law authorizes an incident review committee to take certain action after full consideration of the evidence related to an incident, misconduct, or other matter for which a license may be revoked or suspended.

This bill would, instead, authorize the board, after full consideration of the evidence, report, and recommendations from the incident review committee, to take certain action, including remanding the matter to the incident review committee for further investigation. The executive director would be required to notify the board of any pilot or inland pilot who fails, or refuses, to complete training, practice trips, or other corrective action imposed by the board.

(6) Existing law authorizes the revocation or suspension of a pilot or inland pilot license under specified circumstances.

This bill would, additionally, authorize the revocation or suspension of a license for a pilot's or inland pilot's failure or refusal to complete corrective action imposed by the board.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that providing transparency and accountability to the Board of Pilot Commissioners is in the public interest and it is the intent of the Legislature to enhance, preserve, and continue the state's commitment to state licensure of pilotage on the Bays of San Francisco, San Pablo, and Suisun in order to ensure safe navigation, promote commerce, and protect the environment.

SEC. 2. Section 13975 of the Government Code is amended to read:

13975. The Business and Transportation Agency in state government is hereby renamed the Business, Transportation and Housing Agency. The agency consists of the State Department of Alcoholic Beverage Control, the Department of the California Highway Patrol, the Department of Corporations, the Department of Housing and Community Development, the Department of Motor Vehicles, the Department of Real Estate, the Department of Transportation, the Department of Financial Institutions, the Department of Managed Health Care, and the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun; and the California Housing Finance Agency is also located within the Business, Transportation and Housing Agency, as specified in Division 31 (commencing with Section 50000) of the Health and Safety Code.

SEC. 3. Section 1117 is added to the Harbors and Navigation Code, to read:

1117. “Commission investigator” means a person employed by or under contract with the board and assigned to investigate and report on a navigational incident involving a vessel piloted by a pilot or inland pilot licensed by the board, or other matter, incident, misconduct, suspected safety violation, or other activity reported to, or identified by, the board.

SEC. 4. Section 1130 of the Harbors and Navigation Code is amended to read:

1130. (a) A majority of all of the pilots licensed by the board shall appoint one pilot to act as port agent to carry out the orders of the board and other applicable laws, and to otherwise administer the affairs of the pilots. The appointment is subject to the confirmation of the board.

(b) The port agent shall be responsible for the general supervision and management of all matters related to the business and official duties of pilots licensed by the board.

(c) The port agent shall immediately notify the executive officer of the board of a suspected violation, navigational incident, misconduct, or other rules violation that is reported to him or her or to which he or she is a witness. The board shall adopt regulations for the manner and content of a notice provided pursuant to this section.

SEC. 5. Section 1137 of the Harbors and Navigation Code is amended to read:

1137. (a) The account required pursuant to Section 1136 shall show all of the following:

- (1) The name of each vessel piloted.
- (2) The name of the vessel's master.
- (3) The name of each vessel for which pilotage has been charged or collected.
- (4) The amount charged to or collected for each vessel.
- (5) Any rebates made and allowed and for what amounts.
- (6) Where the vessel is registered.
- (7) The depth of each vessel's draft and its highest gross tonnage.
- (8) Whether the vessel was inward or outward bound.

(b) The board shall record the accounts in full detail in a book prepared for that purpose. The account book is a public record.

SEC. 6. Section 1150 of the Harbors and Navigation Code is amended to read:

1150. (a) There is in the Business, Transportation and Housing Agency a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, consisting of seven members appointed by the Governor, with the consent of the Senate, as follows:

(1) Two members shall be pilots licensed pursuant to this division.

(2) Two members shall represent the industry and shall be persons currently engaged as owners, officers, directors, employees, or representatives of a firm or association of firms that is a substantial user of pilotage service in the Bay of San Francisco, San Pablo, Suisun, or Monterey, one of whom shall be engaged in the field of tanker company operations, and one of whom shall be engaged in dry cargo operations. The board of directors of a regional maritime trade association controlled by West Coast vessel operators that specifically represents the owners and operators of vessels or barges engaged in transportation by water of cargo or passengers from or to the Pacific area of the United States shall nominate, rank, and submit to the Governor the names of three persons for each category of industry member to be appointed.

(3) Three members shall be public members. Any person may serve as a public member unless otherwise prohibited by law, except that during his or her term of office or within the two years preceding his or her appointment, no public member appointed

may have (A) any financial or proprietary interest in the ownership, operation, or management of tugs, cargo, or passenger vessels, (B) sailed under the authority of a federal or state pilot license in waters under the jurisdiction of the board, (C) been employed by a company that is a substantial user of pilot services, or (D) been a consultant or other person providing professional services who had received more than 20 percent in the aggregate of his or her income from a company that is a substantial user of pilot services or an association of companies that are substantial users of pilot services. Ownership of less than one-tenth of 1 percent of the stock of a publicly traded corporation is not a financial or proprietary interest in the ownership of tugs, cargo, or passenger vessels.

(4) Notwithstanding any other provision of law, this chapter does not prohibit the Governor from notifying the nominating authority identified in paragraph (2) that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor, naming three persons, none of whom were previously nominated, from which the Governor may make the appointment. This process shall be continued until a person nominated by the nominating authority and satisfactory to the Governor has been appointed.

(b) Each of the members appointed pursuant to paragraphs (1) and (2) of subdivision (a) shall be appointed for a four-year term, and may not be appointed for more than two terms. Members appointed pursuant to paragraph (3) of subdivision (a) shall be appointed with staggered four-year terms with the initial four-year terms expiring on December 31 of the years 1988, 1990, and 1991, respectively, and a person may not be appointed for more than two terms. Vacancies on the board for both expired and unexpired terms shall be filled by the appointing power in the manner prescribed by subdivision (a).

(c) A quorum of the board members consists of four members. All actions of the board shall require the vote of four members, a quorum being present.

(d) The Secretary of the Business, Transportation and Housing Agency shall serve as an ex officio member of the board who, without vote, may exercise all other privileges of a member of the board.

SEC. 7. Section 1152 of the Harbors and Navigation Code is amended to read:

1152. (a) The public members of the board shall receive, as compensation for their services, the amount that the board may, from time to time, determine, which shall not exceed six hundred dollars (\$600) each per month.

(b) The appointed members and employees of the board shall also be allowed necessary traveling and other verified expenses incurred by them in the performance of their duties.

SEC. 8. Section 1153 of the Harbors and Navigation Code is amended to read:

1153. (a) The board shall organize itself by electing a president, and shall provide offices in San Francisco or Alameda County, in which it shall meet once a month, and it may adjourn its regular meetings from time to time.

(b) Meetings of the board are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 9. Section 1154 of the Harbors and Navigation Code is amended to read:

1154. (a) The board is vested with all functions and duties relating to the administration of this division, except those functions and duties vested in the Secretary of Business, Transportation and Housing.

(b) The board's vested powers include the power to make and enforce rules and regulations that are reasonably necessary to carry out its provisions and to govern its actions. These rules and regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 10. Section 1155 of the Harbors and Navigation Code is amended to read:

1155. The president of the board may administer oaths in regard to any matter properly before it and he or she may issue subpoenas for witnesses in like cases. A witness disobeying the subpoena served on him or her shall incur a penalty of five hundred dollars (\$500), for which judgment may be recovered by the board in a civil action. This section shall not apply to proceedings conducted

in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 11. Section 1156 of the Harbors and Navigation Code is amended to read:

1156. (a) The board may appoint, fix the compensation of, and from time to time adjust the compensation of, an executive director who is exempt from the civil service laws, and other employees as may be necessary. The executive director shall be well qualified for the position, with experience in government. The executive director may perform all duties, exercise all powers, discharge all responsibilities, and administer and enforce all laws, rules, and regulations under the jurisdiction of the board, with the approval of the board, including, but not limited to, all of the following:

(1) The administration of personnel employed by the board in accordance with the civil service laws.

(2) To serve as treasurer of the board and keep, maintain, and provide the board with all statements of accounts, records of receipts, and disbursements of the board in accordance with the law.

(3) The issuance and countersigning of licenses that shall also be signed by the president of the board.

(4) The administration of matters and the maintenance of files pertaining to action taken against licenses issued by the board.

(5) The administration of investigations of, and reporting on, a navigational incident or other matter for which a license issued by the board may be revoked or suspended.

(6) To work with board members, staff, and other interested stakeholders to recommend improvements in the pilot training program.

(7) Under the direction of the board, to coordinate with other state and federal agencies charged with protecting the environment and with the oil and hazardous chemical shipping industry.

(8) Any other function, task, or duty as may reasonably be assigned by the president of the board, including, but not limited to, performing research and obtaining documents and other evidence for board activities, including rate hearings.

(b) The Governor shall appoint one assistant director to serve at the pleasure of the Governor. The assistant director shall have the duties as assigned by the executive director, and shall be

responsible to the executive director for the performance of his or her duties.

(c) The board may employ personnel necessary to carry out the purposes of this chapter. All personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for the executive director and the assistant director, who shall be exempt from state civil service. The board may fix the compensation of, and from time to time adjust the compensation of, any employees as may be necessary.

(d) All personnel of the board shall be appointed, directed, and controlled by the board, the executive director, or the board's authorized deputies or agents to whom it may delegate its powers.

(e) The board may contract and employ commission investigators. The board shall adopt regulations for the minimum standards for a commission investigator that shall include, but are not limited to, a basic knowledge of investigative techniques and maritime issues.

SEC. 11.5 Section 1156.5 of the Harbors and Navigation Code is amended to read:

1156.5. (a) The executive director shall serve at the pleasure of the board and shall be under the direct supervision of the board. The term of office to which the executive director is appointed is five years.

(b) The Secretary of Business, Transportation and Housing, or his or her designee, shall act as the executive director during the absence from the state or other temporary absence, disability, or unavailability of the executive director, or during a vacancy in that position.

SEC. 12. Section 1156.6 of the Harbors and Navigation Code is amended to read:

1156.6. (a) Whenever suspected safety standard violations concerning pilot hoists, pilot ladders, or the proper rigging of pilot hoists or pilot ladders are reported to the board, the executive director shall assign a commission investigator to personally inspect the equipment for its compliance with the relevant safety standards promulgated by the United States Coast Guard and the International Maritime Organization. The commission investigator shall report preliminary conclusions, including an assessment of the equipment's compliance with the relevant safety standards, to the

executive director as soon as possible. If, in the preliminary report, the equipment is found to be in violation, or in likely violation in the opinion of the commission investigator, of the relevant safety standards, the executive director shall immediately alert the Coast Guard Marine Safety Office. The commission investigator shall submit a written report to the incident review committee as established by subdivision (a) of Section 1180.3 that shall remain confidential until reported to the board. The incident review committee, in turn, shall report its findings and recommendations, if any, to the board. The board shall receive the incident review committee's findings, which may include other reports, information, or statements from interested parties. The board shall specify, by regulation, the information that shall be contained in the report.

(b) This section applies to the pilotage grounds, as defined in Section 1114.5. Whenever a vessel passes outside of the pilotage grounds, the commission investigator's report shall include that fact along with a description of the incident.

(c) The record of the investigation and the board's findings and recommendations, if any, shall be a public record maintained by the board.

SEC. 13. Section 1157 of the Harbors and Navigation Code is amended to read:

1157. The board shall keep a written record of all the board's proceedings and acts.

(a) The board shall also keep a complete record of each pilot appointed and licensed by the board that includes at a minimum, his or her current mailing address, residence, the date of the initial issuance and renewal of the license, the date of completion for initial and any subsequent training, and a record of any reports of meritorious activities, commendation, misconduct, safety violations, or other incidents or information related or relevant to the issuance and use of his or her pilot license.

(b) All pilots or inland pilots licensed by the board shall provide the board with written notice of any change of name, mailing address, or residence within 30 days of that change in a manner prescribed by the board.

SEC. 14. Section 1157.1 is added to the Harbors and Navigation Code, to read:

1157.1. (a) Except as provided in Section 1157.4, all records of the board relating to the personal information of a pilot, collected pursuant to subdivision (b) of Section 1157, are confidential and shall not be open to public inspection.

(b) For purposes of this section, “personal information” means information, other than the name and mailing address, that identifies an individual, including an individual’s photograph, social security number, address, telephone number, and medical or disability information, but does not include other information related to licensing such as incidents, rules or safety violations, misconduct, training records, commendations, and license status.

SEC. 15. Section 1157.2 is added to the Harbors and Navigation Code, to read:

1157.2. The board shall establish procedures for access to confidential or restricted information from its records to protect the confidentiality of its employees and licensees. If confidential or restricted information is released to an agent of a person authorized to obtain information, the person shall require the agent to take all steps necessary to ensure confidentiality and prevent the release of information to a third party. An agent shall not obtain or use confidential or restricted records for any purpose other than the reason the information was requested.

SEC. 16. Section 1157.3 is added to the Harbors and Navigation Code, to read:

1157.3. A member of the board, the executive director, the assistant director, or an employee of the board who willfully discloses confidential information from the board record to a person not authorized to receive it shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which may be assessed and recovered in a civil action.

SEC. 17. Section 1157.4 is added to the Harbors and Navigation Code, to read:

1157.4. Upon a request to the board by a federal, state, or local law enforcement agency, the executive director shall make available to the requesting agency any information contained in the board’s records.

SEC. 18. Section 1158 of the Harbors and Navigation Code is amended to read:

1158. The public members, the executive director, the assistant director, and employees of the board shall not engage in an

employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee or make, participate in making, or attempt to use his or her official position to in any way influence a governmental decision in which he or she knows or has reason to know that he or she, or any member of his or her immediate family, has a financial interest.

SEC. 19. Section 1159 of the Harbors and Navigation Code is amended to read:

1159. (a) All moneys received by the board pursuant to the provisions of any law shall be accounted for at the close of each month to the Controller in the form that the Controller may prescribe and, at the same time on the order of the Controller, all these moneys shall be paid into the State Treasury to the credit of the Board of Pilot Commissioners' Special Fund.

(b) Notwithstanding Section 13340 of the Government Code, the moneys deposited in the State Treasury to the credit of the Board of Pilot Commissioners' Special Fund are appropriated without regard to fiscal years for the payment of the compensation and expenses of the board and its officers and employees.

SEC. 20. Section 1159.1 of the Harbors and Navigation Code, as added by Section 9 of Chapter 1423 of the Statutes of 1990, is amended to read:

1159.1. (a) The vessel shall pay a board operations surcharge, the purpose of which is to fully compensate the board and the Business, Transportation and Housing Agency for the official services, staff services, and incidental expenses of the board and agency. The amount of the surcharge shall be 7.5 percent of all pilotage fees charged by pilots and inland pilots, pursuant to Sections 1190 and 1191 unless the board establishes, with the approval of the Department of Finance, a lesser percentage, not to exceed any percentage consistent with subdivision (d).

(b) The surcharge shall be billed and collected by the pilots and inland pilots. The pilots and inland pilots shall pay all surcharges collected by them to the board monthly or at such later time as the board may direct.

(c) The board shall quarterly review its ongoing and anticipated expenses and adjust the surcharge to reflect any changes which have occurred since the last adjustment.

(d) The board operations surcharge shall not represent a percentage significantly more than that required to support the board and any costs of the Business, Transportation and Housing Agency related to the administration of the board pursuant to subdivision (a) in addition to the maintenance of a reasonable reserve.

SEC. 21. Section 1159.4 is added to the Harbors and Navigation Code, to read:

1159.4. (a) The Bureau of State Audits by January 1, 2010, shall complete a comprehensive performance audit of the Board of Pilot Commissioners, and by December 1, 2009, shall complete a comprehensive financial audit of the Board of Pilot Commissioners pursuant to Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of the Government Code.

(b) (1) The actual costs incurred by the Bureau of State Audits in conducting the audits required pursuant to this section shall be paid out of the operations surcharge collected pursuant to Section 1159.1.

(2) The Bureau of State Audits shall apprise the board of the estimated costs of each of the two audits prior to initiating each audit.

(3) Notwithstanding subdivision (d) of Section 1159.1, the board shall make surcharge adjustments pursuant to subdivision (c) of Section 1159.1, as necessary, to comply with this section. The actual costs incurred in conducting audits required by this section shall be considered official services and shall include the staff services and incidental expenses of both the board and the bureau.

(4) The board shall reimburse the Bureau of State Audits for the actual costs incurred in conducting the audits required by this section. Reimbursement shall be made upon a demonstration by the bureau that any costs incurred in conducting the audits were not otherwise covered by an appropriation made by the Legislature for this purpose. If needed, these costs may be reimbursed through an interagency agreement between the board and the Bureau of State Audits.

(c) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 22. Section 1159.5 is added to the Harbors and Navigation Code, to read:

1159.5. The Business, Transportation and Housing Agency shall provide comments and recommendations, if any, to the board and the Legislature based on the final audits of the Bureau of State Audits completed pursuant to Section 1159.4 no later than six months from the date that the agency receives the final audit.

SEC. 23. Section 1171.5 of the Harbors and Navigation Code is amended to read:

1171.5. (a) The board shall adopt, by regulation, licensing standards that equal or exceed standards for obtaining federal endorsements and that conform with and support the state policy specified in Sections 1100 and 1101.

(b) The board shall adopt reasonable rules and regulations that require pilots to be qualified to perform all pilot duties.

(c) The board shall adopt, by regulation, training standards and a training program for pilots, inland pilots, and pilot trainees. In the case of pilot trainees, the training program shall be for a minimum of one year and a maximum of three years. In the case of pilots and inland pilots, the board shall specify the type, nature, duration, and frequency of the training required and the identity of the pilots or inland pilots who are required to undergo training in the next 12-month period. Pursuant to Section 1182, the license of a pilot or inland pilot may be revoked or suspended if he or she fails to complete the training required by this subdivision during the period specified. The board shall also require that an evaluation of the pilot's or inland pilot's performance be prepared by the institution selected by the board to provide pilot training, and the institution shall provide copies of the evaluation to the pilot or inland pilot and to the pilot evaluation committee.

(d) The board shall adopt, by regulation, the qualifications, standards, and rating criteria for admission of pilot trainees to the training program. Notwithstanding subdivision (f), the board shall administer and conduct the pilot trainee admission selection in accordance with the regulations for admission.

(e) The board shall establish a pilot evaluation committee consisting of five active pilots who each have at least 10 years' experience as a pilot on the Bays of San Francisco, San Pablo, and Suisun. The board shall select the members of the pilot evaluation committee. A member may not serve for more than two four-year terms, except that two of the initial members appointed to the pilot evaluation committee shall serve terms of two years.

(f) The pilot evaluation committee shall conduct and supervise the pilot training programs pursuant to the direction and regulation of the board and consistent with the intent of this division.

(g) The board shall issue a certificate of completion to each pilot trainee who satisfactorily completes the training program. The board shall not issue a pilot's license to any person who does not receive a certificate of completion of the training program from the board, although the board may refuse to issue a pilot license to a pilot trainee who has received this certificate.

(h) The training and continuing education programs for pilots, inland pilots, and pilot trainees shall be funded from revenues collected for these purposes as determined by the board pursuant to Sections 1195 and 1196 and deposited into the Board of Pilot Commissioners' Special Fund pursuant to Section 1159.

SEC. 24. Section 1180.6 of the Harbors and Navigation Code is amended to read:

1180.6. (a) The board, after full consideration of the evidence, report, and recommendations presented by the incident review committee relating to an incident, misconduct, or other matter pursuant to Section 1180.3, shall take one or more of the following actions:

(1) Serve an accusation for suspension or revocation of the pilot's or inland pilot's license on the pilot or inland pilot, as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, pursuant to Sections 1181 and 1182.

(2) Enter into a written stipulation for corrective action to be performed by the pilot or inland pilot, which may include, but is not limited to, further training or supervised practice trips.

(3) Provide counseling for the pilot or inland pilot relating to the duties and obligations of a pilot.

(4) Issue a warning letter of reprimand to the pilot or inland pilot.

(5) Take any other action, as provided in the guidelines adopted pursuant to subdivision (e).

(6) Close the investigation without further action.

(7) Remand the matter to the incident review committee for further investigation.

(b) Action required pursuant to subdivision (a) shall be taken by a majority vote of the board.

(c) A member of the board shall not sit on the board as a trier of fact for those cases in which he or she has served on the incident review committee recommending action to the board.

(d) The executive director shall note any action taken by the board pursuant to this section in a pilot's or inland pilot's record and shall establish a suspense file to ensure that all training, practice trips, or other corrective action required to be performed pursuant to subdivision (a) by the pilot or inland pilot are completed as required. The executive director shall report to the board each month on the progress of any training, supervised practice trips, or other corrective action or the completion of any other action required pursuant to subdivision (a).

(e) The executive director shall notify the board of a pilot or inland pilot who fails, or refuses, to complete training, practice trips, or other corrective action imposed by the board pursuant to subdivision (a). If the board determines that the pilot or inland pilot has intentionally failed to complete training, practice trips, or other corrective action, the board may take additional action as specified in subdivision (a).

(f) The board shall adopt guidelines for the determination by the incident review committee of the action to be taken pursuant to subdivision (a) at the completion of an investigation conducted pursuant to Section 1180.3.

SEC. 25. Section 1181 of the Harbors and Navigation Code is amended to read:

1181. The license of a pilot or inland pilot may be revoked or suspended before its expiration only for reasons of misconduct, which shall include, but not be limited to, the following:

(a) Neglect, for 30 days after it becomes due, to render an account to the board of all money received for pilotage.

(b) Neglect, for 30 days after it becomes due, to pay over to the board the percentage of all pilotage money received, as set by the board.

(c) Rendering to the board a false account of pilotage received.

(d) Absence from duty for more than one month at any one time without leave granted by the board, unless sickness or personal injury causes the absence. This subdivision does not apply to inland pilots.

(e) Refusing to exhibit the pilot or inland pilot license when requested to do so by the master of any vessel boarded.

(f) Intoxication or being under the influence of any substance or combination of substances that so affects the nervous system, brain, or muscles as to impair, to an appreciable degree, the ability to conduct the duties of a pilot or inland pilot while on duty.

(g) Negligently, ignorantly, or willfully running a vessel on shore, or otherwise rendering it liable to damage, or otherwise causing injury to persons or damage to property. However, this subdivision does not apply to a vessel of less than 300 gross tons unless a pilot or inland pilot is required by law.

(h) Willful violation of the rules and regulations adopted by the board for the government of pilots or inland pilots.

(i) Inability to comply with the standards of health or physical condition requisite to the duties of a pilot or inland pilot, but in that case the burden of proving compliance with these standards is upon the licensee, unless prior to the hearing the licensee takes and passes those tests or examinations required by the board.

(j) Failure or refusal, to complete training, practice trips, or other corrective action imposed on that pilot or inland pilot by the board pursuant to Section 1180.6.

SEC. 26. Section 1182 of the Harbors and Navigation Code is amended to read:

1182. If, after a hearing, the board finds that the pilot or inland pilot is guilty of misconduct sufficient for deprivation of the license, the board shall revoke or suspend the license of the pilot or inland pilot. The order shall be entered in the minutes and placed in the record of the pilot maintained pursuant to Section 1157. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted pursuant to that chapter.

SEC. 27. Section 1195.1 is added to the Harbors and Navigation Code, to read:

1195.1. (a) The moneys charged and collected each month from the pilot trainee surcharge pursuant to Section 1195 shall be paid to the Board of Pilot Commissioners' Special Fund pursuant to Section 1159. The moneys shall be used only to fund the pilot trainee training program referred to in subdivision (h) of Section 1171.5 and Section 1195.3.

(b) Information regarding moneys remitted to the Board of Pilot Commissioners' Special Fund pursuant to Section 1159 collected

from the surcharge authorized pursuant to Section 1195, or otherwise collected by the board for that purpose, and information regarding moneys spent as pilot trainee training program expenses authorized by Section 1195.3 shall be made available to the public upon request and to the board or its finance committee.

SEC. 28. Section 1195.3 is added to the Harbors and Navigation Code, to read:

1195.3. Expenses of the pilot trainee program shall include all costs incurred by the board in the operation and administration of the pilot trainee training program and all costs resulting from any contracts entered into for the purchase or lease of goods and services required by the board, including, but not limited to, the costs of testing, test preparation, advertising and soliciting for trainee applicants, trainee stipends, worker's compensation insurance premiums, reimbursement of costs of services provided to the board by other governmental entities, and for the costs for any other goods and services necessary for effectuating the purposes of training as determined by the board.

SEC. 29. Section 1196.1 is added to the Harbors and Navigation Code, to read:

1196.1. (a) The moneys charged and collected each month from the pilot and inland pilot continuing education surcharge pursuant to Section 1196 shall be paid to the Board of Pilot Commissioners' Special Fund pursuant to Section 1159. The moneys shall be used only to fund the pilot and inland pilot continuing education program referred to in subdivision (h) of Section 1171.5 and Section 1196.3.

(b) Information regarding moneys remitted to the Board of Pilot Commissioners' Special Fund pursuant to Section 1159 collected from the surcharge authorized pursuant to Section 1196, or otherwise collected by the board for that purpose, and information regarding moneys spent as pilot and inland pilot continuing education expenses authorized by Section 1196.3 shall be made available to the public upon request and to the board or its finance committee.

SEC. 30. Section 1196.3 is added to the Harbors and Navigation Code, to read:

1196.3. Pilot and inland pilot continuing education expenses shall include all costs incurred by the board in the operation and administration of the pilot and inland pilot continuing education

program and all costs resulting from any contracts entered into for the purchase or lease of goods and services required by the board, including, but not limited to, the reimbursement of costs of services provided to the board by other governmental entities, and for the costs for any other goods and services necessary for effectuating the purposes of continuing education as determined by the board.

SEC. 31. The sum of three hundred fifty thousand dollars (\$350,000) is hereby appropriated from the operations surcharge collected pursuant to Section 1159.1 of the Harbors and Navigation Code to the Bureau of State Audits for the purpose of reimbursing the bureau for conducting the audits required pursuant to subdivision (a) of Section 1159.4 of the Harbors and Navigation Code.

Approved _____, 2008

Governor